



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

November 25, 1998

Ms. Carla Robinson  
Assistant City Attorney  
City of College Station  
P.O. Box 9960  
College Station, Texas 77842

OR98-2869

Dear Ms. Robinson:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 119805.

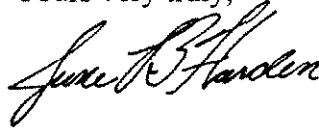
The City of College Station (the "city") received a request for certain 1099-MISC forms issued during a two year period. You claim that the requested information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Initially, we recognize that the requestor is a member of the city council. This office has previously ruled that members of the governing body of a state or local governmental entity have an inherent right to examine the records of the governmental entity if they request access to the records in their official capacity. *See* Attorney General Opinion JM-119 (1983), Attorney General Letter Opinion No. 93-69 (1993). The determination of whether a member makes a request in his official capacity rather than as a member of the public would involve the resolution of factual issues and is therefore outside the scope of the open records process. Open Records Decision Nos. 554 (1990), 552 (1990). However, based on your statements, we assume that you consider the councilman's request for information to be a request from a member of the general public.

Section 552.101 of the Government Code excepts from disclosure information that is made confidential by law, including information deemed confidential by statute. Section 6103(a) of title 26 of the United States Code renders tax return information confidential. *See* Open Records Decision Nos. 600 (1992), 226 (1979). We, therefore, conclude that the city must withhold the requested IRS forms from public disclosure.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied on as a previous determination regarding any other records. If you have any questions regarding this ruling, please contact our office.

Yours very truly,

A handwritten signature in black ink, appearing to read "June B. Harden". The signature is fluid and cursive, with the first name "June" and last name "Harden" clearly legible.

June B. Harden  
Assistant Attorney General  
Open Records Division

JBH/ch

Ref.: ID# 119805

Enclosures: Submitted documents

cc: Mr. Swiki A. Anderson  
1805 Hondo  
College Station, Texas 77842  
(w/o enclosures)